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Review Staff: 75/3104/3
24 November 1975

Mr. A. Searle Field
Staff Director
Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Field:

During Director Colby's earlier testimony before the House Select Committee, Congressman Milford asked certain questions concerning the adequacy of the basic laws governing the intelligence community. He also advanced some proposals on Agency and community procedural relationships with Congress and requested the Director's comments.

We are forwarding herewith Mr. Colby's response to the questions of Congressman Milford.

STATINT

Sincerely,



Chief, Review Staff

Attachment:
As Stated

Question: Are the basic laws governing our intelligence community adequate? If not, where are they deficient?

Answer : The basic laws governing the intelligence community are generally adequate, although there is need for some clarification in the 1947 National Security Act. A major area where these laws are deficient is in the protection of intelligence sources and methods from unauthorized disclosure, the responsibility for which has been imposed upon the Director of Central Intelligence by section 102(d)(3) of the National Security Act of 1947.

Question: Do you have any specific recommendations for changing these laws in order to fulfill the goals specified in your testimony?

Answer : The Agency recommends amending the National Security Act of 1947 as follows:

- (1) Add the word "foreign" before "intelligence" wherever applicable.
- (2) Add the collection of foreign intelligence as a function of the Central Intelligence Agency.
- (3) Clarify the proscription on internal security operations and police-type activity within the U.S. by adding provisions authorizing certain activities within the U.S. in support of foreign intelligence activities.
- (4) Remove the reporting requirement on non-intelligence gathering activities from the Foreign Assistance Act and place it within the National Security Act of 1947 in section 102(d)(5), and change the language of the reporting requirement to make it clear that timely reporting to Congress is not necessarily a condition precedent.
- (5) Enact the Agency's proposed legislation "Unauthorized Disclosure of Intelligence Sources and Methods," which amends the 1947 Act to give effect to the Director's statutory responsibilities under section 102(d)(3) of that Act.

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which would provide for effective congressional oversight. The Agency believes that the consolidation and concentration of oversight responsibilities would result in the most effective oversight and would also protect intelligence sources and methods by reducing the proliferation of sensitive operational information throughout Congress.

We are conducting continuing studies regarding possible requirements for changes in existing statutes. Further recommendations may be made as a result of those studies.

QUESTION: Will you give me specific recommendations or steps which you believe will result in better relations among Congress, the Administration and the citizens concerning intelligence matters?

ANSWER: It is clearly recognized that the policy makers, legislators, and indeed the electorate must be adequately informed. With assurances of proper protection, the Agency strongly endorses the broad dissemination of intelligence to meet national needs. The Agency has provided essential information to the Congress while protecting sensitive matters which the Congress had mandated that the Director protect. It is believed that once the Congress has developed effective measures to protect sensitive intelligence information which has been made available to it, a major source of potential conflict will have been resolved.

QUESTION: If Congress set up a joint Committee on intelligence to properly oversee the entire intelligence community with complete confidentiality as far as classified information was concerned, would you, as Director of Central Intelligence or would the Administration that you are under, have any reservations to the following proposal:

1. That the Intelligence community present for authorization hearings its true annual budget proposals - including all line items that are normally concealed under other headings or contained within other Defense functions?

as these should be resolved by the Congress. However, I cannot in good conscience concur in such a recommendation. The recommendation contemplates an annual authorization to appropriate funds for the activities of CIA, a requirement which does not now exist under current law (Central Intelligence Agency Act of 1949). Such new annual authorization requirement carries with it the same security problems of an open budget for the CIA.

I firmly believe that the CIA budget and certain classified intelligence programs of the Department of Defense should remain fully classified and non-identifiable. The requirement of annual authorization for the intelligence community requires hearings before oversight committees to explain the budget (which is presently done and which is a procedure I support) with the added requirement of moving an authorization bill through the entire legislative process. The resulting public disclosure could provide potential enemies with considerable insight into the nature and extent of our activities. Even a single figure in an authorization bill, without further revelation, could result in questions and discussions of any changes or trends developed in succeeding year figures and generate a demand for explanations eroding necessary secrecy.

I would not object, however, to an arrangement whereby the oversight committee follows a procedure similar to that utilized for the intelligence budget by the appropriations committees. Under such an arrangement, the oversight committee would authorize expenditure of a specified sum by means of a classified letter to the Director of Central Intelligence. In addition, a statement could be included in the published committee report on the authorizing legislation stating that the funds authorized in the bill included funds for the CIA.

2. That the intelligence community would totally brief the committee on the desired annual goals, programs, projects and missions of the intelligence community that the annual budget is designed to support?

ANSWER: Approved For Release 2004/09/15 : CIA-RDP89B00552R000800030006-3
This proposal conforms to our existing practice. I have

often stated that the Agency has no secrets from its oversight committees. The Appropriations Committees or its subcommittees receive annual briefings on the goals, programs, projects, and missions of the individual agencies of the intelligence community, as part of the annual appropriations process. CIA also keeps its legislative oversight committees fully informed of the Agency's activities.

3. That the committees would assign the General Accounting Office to selectively audit any specific project, operation or mission that they would deem necessary so long as the compartmentalization principle is observed?

ANSWER: Section 8(b) of the Central Intelligence Agency act of 1949 gives the Director the authority to expend funds without the disbursements being subject to further review. It has always been my position that a substantial number of CIA's programs could be audited by GAO, and in fact, GAO did audit some of our programs for over ten years. That audit was terminated in 1962 because GAO did not have access to all our accounts, and did not feel they could conduct a meaningful comprehensive audit without additional access. I am certain that arrangements can be made for a resumption of a GAO audit of Agency activities at the request of one of our oversight committees. This would require advance agreement on security procedures and on the distribution and content of the GAO report. In this connection, it should also be noted there may be instances where expenditures may be made which would not meet normal audit procedures although they would meet the requirements for expenditures made on a certification by the Director under his specific statutory authority.

4. That the Committees would be equally informed of day-to-day intelligence activities in the same manner as the President of the United States, so long as the same security regulations are followed and further subject to specifications contained in this hypothesis?

ANSWER: The Agency is strongly committed to the idea of giving maximum dissemination of information consistent with essential security requirements. The Agency believes that an informed Congress is necessary to the effective conduct of foreign policy and believes it has an important part to play in keeping Congress informed. The Agency has provided and will continue to provide the Congress with substantive intelligence information. With respect to reporting on "day-to-day intelligence activities"-- that is, daily operational matters--different considerations are involved. The Congress established the CIA within the Executive branch. The President has the constitutional responsibility to administer the Agency and to see to the execution of its functions. Congress' oversight of intelligence activities relates to its constitutional responsibilities for appropriations and legislative oversight. To perform these legislative functions, it is not necessary that Congress be reported to on the day-to-day intelligence activities of the Agency "in the same manner" as the President of the United States, who has administrative responsibilities. Indeed, such an intensive reporting requirement would suggest that Congress had assumed the function of administering the intelligence activities of the United States.

9. Questions from Congressman Milford

A. Are the basic laws governing our intelligence community adequate? If not, where are they deficient?

The basic laws governing the intelligence community are generally adequate, although there is need for some clarification in the 1947 National Security Act. A major area where these laws are deficient is in the protection of intelligence sources and methods from unauthorized disclosure, the responsibility for which has been imposed upon the Director of Central Intelligence by section 102(d)(3) of the National Security Act of 1947.

B. Do you have any specific recommendations for changing these laws in order to fulfill the goals specified in your testimony?

The Agency recommends amending the National Security Act of 1947 as follows:

- (1) Add the word "foreign" before "intelligence" wherever applicable.
- (2) Add the collection of foreign intelligence as a function of the Central Intelligence Agency.
- (3) Clarify the proscription on internal security operations and police-type activity within the U.S. by adding provisions authorizing certain activities within the U.S. in support of foreign intelligence activities.
- (4) Remove the reporting requirement on non-intelligence gathering activities from the Foreign Assistance Act and place it within the National Security Act of 1947 in section 102(d)(5), and change the language of the reporting requirement to make it clear that timely reporting to Congress is not necessarily a condition precedent.
- (5) Enact the Agency's proposed legislation "Unauthorized Disclosure of Intelligence Sources and Methods," which amends the 1947 Act to give effect to the Director's statutory responsibilities under section 102(d)(3) of that Act.

Moreover, the Agency would recommend an amendment to the Freedom of Information Act which would alleviate the adverse effect that this Act is having on the performance of the Agency's primary mission.

The Agency would support the enactment of legislation which would provide for effective congressional oversight. The Agency believes that the consolidation and concentration of oversight responsibilities would result in the most effective oversight and would also protect intelligence sources and methods by reducing the proliferation of sensitive operational information throughout Congress.

Question: ~~Q~~. Will you give me specific recommendations or steps which you believe will result in better relations among Congress, the Administration and the citizens concerning intelligence matters?

Answer: It is clearly recognized that the policy makers, legislators, and indeed the electorate must be adequately informed. With assurances of proper protection, the Agency strongly endorses the broad dissemination of intelligence to meet national needs. The Agency has provided essential information to the Congress while protecting sensitive matters which the Congress had mandated that the Director protect. It is believed that once the Congress has developed effective measures to protect sensitive intelligence information which has been made available to it, a major source of potential conflict will have been resolved.

Question: ~~Q~~. If Congress set up a joint Committee on intelligence to properly oversee the entire intelligence community with complete confidentiality as far as classified information was concerned, would you, as Director of Central Intelligence or would the Administration that you are under, have any reservations to the following proposal:

Question: ~~Q~~ 1. That the intelligence community present etc
2. That the intelligence community would totally brief the committee on the desired annual goals, programs, projects and missions of the intelligence community that the annual budget is designed to support?

Answer: This proposal conforms to our existing practice. I have often stated that the Agency has no secrets from its oversight committees. The Appropriations Committees or its subcommittees receive annual briefings on the goals, programs, projects, and missions of the individual agencies of the intelligence community, as part of the annual appropriations process. CIA also keeps its legislative oversight committees fully informed of the Agency's activities.

Answer: ~~Q~~ The recommendation contemplates etc —

3. That the committees would assign the General Accounting Office to selectively audit any specific project, operation or mission that they would deem necessary so long as the compartmentalization principle is observed?

Section 8(b) of the Central Intelligence Agency Act of 1949 gives the Director the authority to expend funds without the disbursements being subject to further review. It has always been my position that a substantial number of CIA's programs could be audited by GAO, and in fact, GAO did audit some of our programs for over ten years. That audit was terminated in 1962 because GAO did not have access to all our accounts, and did not feel they could conduct a meaningful comprehensive audit without additional access. I am certain that arrangements can be made for a resumption of a GAO audit of Agency activities at the request of one of our oversight committees. This would require advance agreement on security procedures and on the distribution and content of the GAO report. However, some transactions and programs cannot be confirmed or evaluated by GAO without disclosing U.S. Government/CIA interest or compromising the activity. My certification alone must be sufficient for these activities.

4. That the committees would be equally informed of day-to-day intelligence activities in the same manner as the President of the United States, so long as the same security regulations are followed and further subject to specifications contained in this hypothesis?

The Agency is strongly committed to the idea of giving maximum dissemination of information consistent with essential security requirements. The Agency believes that an informed Congress is necessary to the effective conduct of foreign policy and believes it has an important part to play in keeping Congress informed. The Agency has provided and will continue to provide the Congress with substantive intelligence information. With respect to reporting on "day-to-day intelligence activities"--that is, daily operational matters--different considerations are involved. The Congress established the CIA within the Executive branch in recognition of the uniquely Executive function it would perform. The President has the constitutional responsibility to administer the Agency and to see to the execution of its functions. Congress' oversight of intelligence activities relates to its constitutional responsibilities for appropriations and legislative oversight. To perform these legislative functions, it is not necessary that Congress be reported to on the day-to-day intelligence activities of the Agency in the same manner as the President of the United States, who has administrative constitutional responsibilities. Indeed, such an intensive reporting requirement would suggest that Congress had assumed the extra-legislative function of administering the intelligence activities of the United States.

Questions from Congressman Dellums

2. Request for specific information on who in Congress and OMB were briefed prior to the execution of Project Phoenix or the CORDS programs and the dates of such briefings.

Mr. Colby testified on the programs on 18 February 1970 before the Senate Foreign Relations Committee, on civil operations, rural development and support programs in Vietnam.

Note: Copy of testimony should be available to the House Select Committee. There is only one copy in OLC.

5. Request for all briefings of any members on CIA improprieties and copies of any materials used.

The matter of improprieties was discussed:

- a. on 23 May 1973 with Representative Lucien Nedzi
- b. on 26 May 1973 with Senator Stuart Symington
- c. on 29 May 1973 with Senator John C. Stennis
- d. on 8 May 1975 with James Calloway and Guy McConnell, staff members Senate Armed Services Committee
- e. on 9 Jan. 1975 with Frank Slatinshek, Jack Boos, and William Hogan, staff members of House Armed Services Committee
- f. on 15 Jan. 1975 Intelligence Operations Subcommittee, Senate Appropriations staff
- g. on 16 Jan. 1975 CIA Subcommittee, Senate Armed Services
- h. on 20 Feb. 1975 Defense Subcommittee, House Appropriations
- i. on 21 Feb. 1975 Defense Subcommittee, House Appropriations
- j. on 8 April 1975 Special Subcommittee on Intelligence, House Armed Services
- k. on 17 April 1975 Defense Subcommittee, House Appropriations
- l. on 18 April Subcommittee on Intelligence, House Armed Services
- m. on 2 June 1975 with Representative Lucien Nedzi
- n. on 15 July 1975 with Senator Symington
- o. on 30 July 1975 Intelligence Operations Subcommittee, Senate Appropriations
- p. on 31 July 1975 Subcommittee on Government Information and Individual Rights, House Government Operations Committee
- q. on 1 August 1975 Subcommittee on Government Information and Individual Rights, House Government Operations Committee
- r. on 5 September 1975 Representative Lucien Nedzi

Note: The file on "skeletons" was used during the briefings. File is available in OLC.

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| CONCURRENCE | | INFORMATION | | SIGNATURE | |
| Remarks: Bill: The attached answers to Congressman Milford were not cleared with the Director, however, I believe they reflect his views and in some instances, are lifts from some of his statements. I will run this by him over the weekend, but, realizing your deadline, suggest you indicate to the Committee that we are checking these with the Director and may want to make some changes when they go from galley proof to page proof. | | | | | |
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| FROM: NAME, ADDRESS AND PHONE NO. | | | | DATE | |
| George L. Cary, Legislative Counsel | | | | 21 Nov | |
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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

Legislative Counsel

EXTENSION

NO.

OLC 75-2457/a

DATE

17 October 1975

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TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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This is in response to questions of interest to OLC in your request no. STATINTL 75/3104A dated 1 October.

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